PATENT

Confirmation No.: 2687

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.: Applicant(s): 10/263,135

Fritzemeier et al. October 2, 2002

Filed: Art Unit:

1742

Examiner:

Jenkins, Daniel J.

Title:

METHOD FOR PREPARING CRYOMILLED ALUMINUM ALLOYS

AND COMPONENTS EXTRUDED AND FORGED THEREFROM

Docket No.:

038190/234776

Customer No.: 00826

October 27, 2004

Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

#### **DECLARATION UNDER 37 C.F.R. § 1.131**

Sir.

We, Daniel E. Matejczyk and Thomas J. Van Daam, hereby declare and state that:

- We are inventors of the claimed invention of the above-identified U.S. Patent 1. Application Serial No. 10/263,135.
- At least as early as December 31, 2001, we reduced to practice our invention as 2. described and claimed in the subject application, generally directed to a method of preparing cryomilled aluminum alloys and components extruded and forged therefrom.
- Exhibit A (attached) is a copy of the "Nanophase Processing Yield/Scrap Tally" 3. spreadsheet maintained by Raul Perez, working under the supervision of Dan Matejczyk. The spreadsheet shows that alloys were cryomilled as batch numbers NPCxx-05 and NPCxx-06 (portions of batch numbers have been redacted) at least as early as December 31, 2001. Cryomilling is a nanostructured material synthesis technique. Exhibit B (attached) shows handwritten lab notes, dated at least as early as December 31, 2001,

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> which indicate the composition of the inert-gas-atomized starting powders that were weighed out and then cryomilled in an attritor. The composition of the metal powder, as indicated, was approximately 8 wt% Mg with the balance of the composition being approximately 92 wt% Al. 8 wt% Mg is well within the 1 atomic% to 11 atomic% range recited in the pending claims of the 10/263,135 application. As indicated on Exhibit A, both samples NPCxx-05 and NPCxx-06 were degassed in Impeller can #3, also designated as "Imp 3". Exhibit C (attached) is a copy of lab notebook pages that evidence the degassing and consolidation procedure applied to the contents of Impeller can #3. Exhibit D (attached) is a copy of hand-written notes showing the extrusion of the resulting consolidated billet from Impeller can #3 at least as early as December 31, 2001. Exhibit E (attached) is a printout of laboratory results, dated at least as early as December 31, 2001, showing the Mg and Fe content of the extruded sample (Imp 3). Finally, Exhibit F (attached) is a copy of test results, dated at least as early as December 31, 2001, showing that the nitrogen content of the extruded sample (Imp 3) is above 0.3 wt%. The resultant nitrogen content indicated at least a 0.3 wt% increase in nitrogen content compared to the alloy powder prior to cryomilling. Dates, personal information, and other information not relevant to the substantiation of invention have been reducted from the copies included in the Exhibits. Although the dates have been reducted, each of Exhibits C, D, E, and F is dated at least as early as December 31, 2001.

- 4. During production of the Imp 3 sample described above, refractory material was not added to the alloy by anyone associated with production of the alloy. It would have been customary and regular practice to record any additions of refractory materials to the alloy in the cryomilling logs. The lack of any indication, in the cryomilling logs, that refractory material was added is positive evidence that no refractory material was added to the Imp 3 sample.
- 5. The attached exhibits evidence that, at least as early as December 31, 2001, we reduced to practice a cryomilled aluminum alloy by the steps of: providing a metal

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powder comprising 89 atomic% to 99 atomic% aluminum, 1 atomic% to 11 atomic% of a secondary metal selected from the group consisting of magnesium, lithium, silicon, titanium, zirconium, and combinations thereof; and processing the metal powder with a nanostructured material synthesis technique such that at least 0.3 weight% nitrogen was added to the metal; wherein refractory material was not added to the metal during processing. The exhibits further illustrate that we cryomilled such a powder, removed gaseous components from the cryomilled powder, consolidated the cryomilled powder into a metallic billet, and extruded the metallic billet, at least as early as December 31, 2001.

6. We hereby declare that all statements made herein of our own knowledge are true, and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application of any patent issued thereon.

Daniel E. Matejczyk

Thomsyou posen votez/og

Thomas J. Van Daam

CLT01/4675634v3

# Nanophase Processing Yield/Scrap Talley

Run No.	Date	Yield (Kg)	Yield %	Scrap (Kg)	Pwdr in Attrit	Attrit Run'g Tot	Comments
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NPC -05		19.625	98% 78%	2.650 3.010	-2.275 +1.330	12.590 13.920	R.H 2%. R.H. 4%. Packed impeller can #3 with
			98% 78%	2.650 3.010	-2.275 +1.330	12.590 13.920	R.H 2%. R.H. 4%. Packed impeller can #3 with 6/2 & 6/4 run.
NPC 05		19.625					R.H. 4%. Packed impeller can #3 with
NPC 05		19.625	78%	3.010	+1,330		R.H. 4%. Packed impeller can #3 with 6/2 & 6/4 run.

PAGE 8/26 \* RCVD AT 10/7/2005 3:14:06 PM [Eastern Daylight Time] \* SVR:USPTO-EFXRF-6/25 \* DNIS:2738300 \* CSID:7043316090 \* DURATION (mm-ss):06-56

NPC -05

Powder Measure in hopper 50009 50009 Zadal 170009 9 (00 rpm BEST AVAILABLE COPY STAM Powder dum 520 in glove box 3000 g 3 50/50 AR-M9 Batch #9 - 70245 40 g steame Heid SCHAP 26509 42659 48459 26059 19625

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NPC -06

Powder Measure

5005 9 7 C.P. Al

5105 9 Ratch

2000 1 #9-9035

170009 50/50 Mg-Af

Batch #9-70

409 Stearie Acid

735 hopper on

745 hopper on

151 LN2 Thru hopp

807 powder drop

814 Powder dump

414 Powder dump

423 inglove box

yield <u>scrap</u> R.H. 4%
4250 g
4310 g
4380 g
2720 q
15660 g

Work continued to Page 43

DATE

## 42 TITLE Degas of Empeller contes PROJEC. NO. Nanophase Al Work continued from Page 38.785K Vacuun 10 08:30 Pwr DUMP CA AT V ac 160 38k 4×10 (0 +56 19) 2,4 15 2:45 69W 18:53 51 2 水片 400 9.81110 40°C 19: PO 1.0 70W 38K 33°C ~ 3.00×10-5 => The slight vacuum changes. => Possible look 30 5 who wittegen lynge betoke exchanging ving - to high varueum after changing or ring, and position

PAGE 11/26 \* RCVD AT 10/7/2005 3:14:06 PM [Eastern Daylight Time] \* SVR:USPTO-EFXRF-6/25 \* DNIS:2738300 \* CSID:7043316090 \* DURATION (mm-ss):06-56

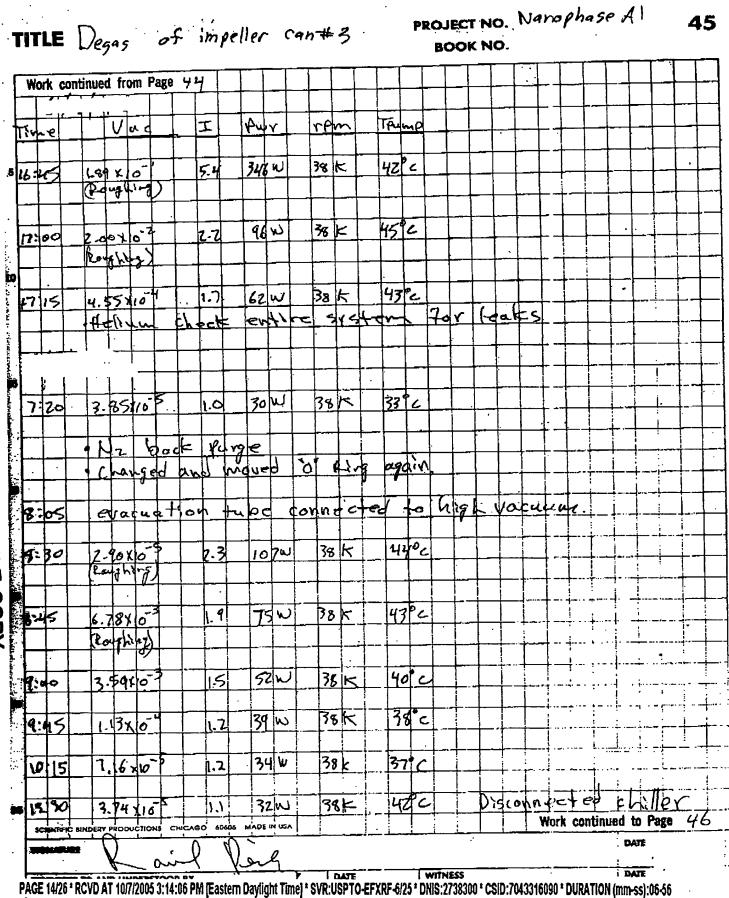
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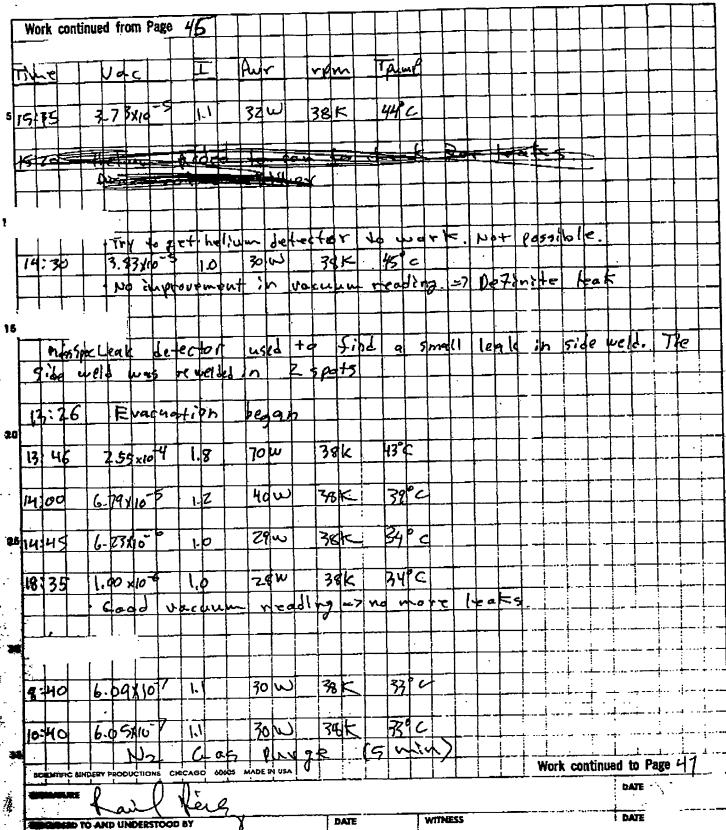
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# TITLE Degas of impeller ean#3 PROJECT NO. Nanophase Al BOOK NO.



PAGE 15/26 \* RCVD AT 10/7/2005 3:14:06 PM (Eastern Daylight Time) \* SVR:USPTO-EFXRF-6/25 \* DNIS:2738300 \* CSID:7043316090 \* DURATION (mm-ss):06-56

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DATE

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PROJECI NO. Nanophase Al 48 TITLE Degas of impeller can#3 BOOK NO. Work continued from Page 47 High Var Toump Time Vac r in 341 266 177×10-5 **9** 12:30 NOA 27W 38k 375 344/ 3y2\_ ગ્રુષ્ઠ **ે**¢ 278.0 2.59 x10-5 28 M 38 K 277,6 13/10 IDA 375 hold 300 367 2913.6 2.98×10-5 **78°C** 1,0A 28W 38k 289,4 10 13:40 7 40 P 14:25 3,24xp-5 38k 38°C 38,2 28W 3/11.8 rang 1482 1 PA 15 394 318.4 400 1.11 38% 321.8 28 W 38 k 14:53 3.15×10-5 1.4 4 395 376 337.8 400 1611 16:00 ZØW 38K 2.86×10 1.0A 395 36°C 346.2 12.46 ×10-5 343,8 400 held LOA ZEW 38K 20 17 00 364.2 Hookold 399 8.69x10 3474 39K 28w 18220 .0 384.2 3392 349 38K 393.0 8-71×10 [.0 29 W 8:30 445 450/30 4:45 3292 385-8 384.6 8.9010 381 i, a 29 0 454 1310 454 329 c 390.4 389.0 4: ba 8-911100 1:0 29 W 38K 450/ Lold 30 9: 5 38K 3292 3994 392.6 448 29W 9.461.0 Ld 500/30 ममंद्रे 320 3970 29 5 75K 3950 1:10 1.0 110 Lo 475 38K 132°C 405.2 403-2 4-45 7-0 29 N 6) 101. .35

PAGE 17/26 \* RCVD AT 10/7/2005 3:14:06 PM [Eastern Daylight Time] \* SVR:USPTO-EFXRF-6/25 \* DNIS:2738300 \* CSID:7043316090 \* DURATION (mm-ss):06-56

DATE

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D TO AND UNDERSTOOD BY

60605 MADE IN USA

TITLE	impeller	can	#3
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## PROJECT NO. BOOK NO.

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į Lo	29 W.	38 K	3190	428-2	424.Z	30	44
lo.	Sdim	38 K	31° C	432.4	430-Z	525/30	40
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		38 K	31° C	496-8	4 <b>9</b> ≤4 Work ≈	750/ko(d	56
2 2 %	L,					DATF :	
	10: 10: 10: 10: 10: 10: 10: 10: 10: 10:	1.0 29 W  1.0 29 W  1.0 29 W  1.1 29 W  1.1 39 W  1.1 30 W  1.1 30 W  1.1 31 W  1.1 31 W  1.1 31 W  1.1 31 W  1.1 32 W	1.0   29   38 K   10   29   38 K   38 K	10   29   W   38 K   319 C     5   1.1   29   W   38 K   319 C     5   1.1   29   W   38 K   319 C     5   1.1   39   W   38 K   319 C     5   1.1   30   W   38 K   319 C     5   1.1   30   W   38 K   319 C     5   1.1   30   W   38 K   319 C     5   1.1   31   W   38 K   319 C     5   1.1   31   W   38 K   309 C     6   1.1   31   W   38 K   309 C     7   33   W   38 K   309 C     8   1.1   32   W   38 K   310 C     9   1.1   32   W   38 K   310 C     10   12   33   W   38 K   310 C     11   31   W   38 K   309 C     12   33   W   38 K   310 C     13   W   38 K   310 C     14   17   33   W   38 K   310 C     15   CHICLAGO ADAGIS MADE IN USA	110 29 W 38 K 31°C 428.72  10 129 W 38 K 31°C 428.72  10 129 W 38 K 31°C 432.4  10 29 W 38 K 31°C 449.4  11 29 W 38 K 31°C 449.4  11 39 W 38 K 31°C 449.4  11 30 W 38 K 31°C 449.4  11 30 W 38 K 31°C 449.4  11 30 W 38 K 31°C 463.8  11 30 W 38 K 31°C 463.8  11 30 W 38 K 31°C 470.6  11 31 W 38 K 31°C 470.6  11 31 W 38 K 30°C 484.4  11 31 W 38 K 30°C 484.4  12 33 W 38 K 30°C 498.6  4 12 33 W 38 K 31°C 498.6	11.0   29   W   38 K   319 C   4721-4   419 4   419 4   419 4   419 6   410   419 6	10   29   10   38 K   31 ° C   478 - 2   478

PAGE 18/26 \* RCVD AT 10/7/2005 3:14:06 PM [Eastern Daylight Time] \* SVR:USPTO-EFXRF-6/25 \* DNIS:2738300 \* CSID:7043316090 \* DURATION (mm-ss):06-56

PROJECT ...O.

impeller can #3 TITLE **50** BOOK NO. Work continued from Page 44 High (luhit ICZ Puly RIM Pump 55% hold 543 H97-8 4942 370 6 38 K .2 33 2 41:00 1.44 110 443 550/406 5000 5042 3190 34 W %ド 12 mile L7H Sto 543 554/hald 501.8 319 C 501.0 38 K 35 N 14130 20171 1.47110 10 505.0 542 503-4 317 38 K C 14.48 36.M Yu. 4.43 110 550 Wale 5041-8 542 39 N. 329 仁 35K 506.2 K;00 .5816 562 5042 **36**₹ 32° C 507-4 41 W 15 14:15 1-31 116 BEST AVAILABLE COP 542 507.6 321 38 508.8 5.03 Xko 15:30 2.37 110 561 510 2 504-8 XX 330 Ç 24 W **的料**5 550/14/1 56) 5046 510 8 33° C 62 W 38 K 541 349 C 2118 510-2 38 K 旧片 73 W 1-28116 554/hald 5112 54] 51216 3510 85 W 38 K 18 32 6-29 10 1-84 X10-1 96Y 511.A 3696 513.4 3¢ | K 16345 8-8070 2.47110-1 Contriv 560 514-6 5140 1700 38 K 3796 10/10 16:52 3 0510 ughler 560 514.8 THE AC .5HX10-561 51 \$.4 399 C 513.8 ZIN 計制や 3-95X40-1 Pulmy Work continued to Page CHICAGO SOSOS MADE IN USA DERY PRODUCTIONS Pères WITNESS DATE TO AND UNDERSTOOD BY DATE

PAGE 19/26 \* RCVD AT 10/7/2005 3:14:06 PM [Eastern Daylight Time] \* SVR:USPTO-EFXRF-6/25 \* DNIS:2738300 \* CSID:7043316090 \* DURATION (mm-ss):06-56

51 PROJECT NO. impeller can #3 TITLE BOOK NO. Work continued from Page 50 TEZ Pint ኍኯ 540 514.4 514.0 39° C 74 K 124 W 17:45 3 96×10 PERK 540 516.6 401 6 38 K 2\_7 12d 1200 10 3 84 10-1 Puny 409 5 517.0 38 17 119 18:15 3.57x14 . BEST AVAILABLE COPY 1540 401C 517.4 38K 112 4 2-5 18:30 B. 17 XID Roughling Punp 50 5/6.2 5178 4090 38 K 18:45 2.65×10 38 1 33° 33 m 59 8155 8:45 575 33 C 38 K 7.52x10 589 33 C 38 K 32 W 7.70×10-> 587 8 27 × 10 M:45 587 975 1.11 Work continued to Page 52 PRODUCTIONS CHICAGO ADAGS MADE IN USA WITNESS

PAGE 20/26 \* RCVD AT 10/7/2005 3:14:06 PM [Eastern Daylight Time] \* SVR:USPTO-EFXRF-6/25 \* DNIS:2738300 \* CSID:7043316090 \* DURATION (mm-ss):06-56

impelier can #3 PROJECT NO. **52** TITLE BOOK NO. Work continued from Page 5 Hursare THOUSE 199 Td Īc, 537 541 610/30 83W 38k 357 537.6 XID. 10:45 7 99 x10 3 510/bal 38k 25t 554,4 83 W 333H 63b 9.90 11:15 1.52 ×10 623 1,2 370 5876 **158.4** 610/hold 38 K 13:*DO* 6.86×10-3 10 38k 38°C 625/30 3 \$73K 572.H 14 15 62 1.69 ×10 814xp-3 15 10 170 x10-9 625 13 38 58314 好2.2 38k 9.22 ×10-3 15 roughing pump BEST AVAILABLE COPY 63 1.3 38°C 625/cal 16:00 38 38k 5187.12 586.0 1172 210-4 636 1,3 38k 380 587.8 588.8 625/1 acm 17:09 59 xb 150 K10+3 2.49 \$10 5 635 3940 625/Local 11,0 284 38K 33°C 592,4 28W 5926 634/Local 635 38k \$94b 25 04: 10 2.52 10 1.0 632/600 33°C 10 2.55 XO 376.8 595,2 284 10 30 2.57×p15 28 3/°C 643 38k 51886 597.2 632/Lotg1 12:00 38 34°C 634/Carall 1,0 599.K 2.47 X0-3 28 598.2 599.2 632/ Local 38 .642 400.6 15100 2.20 500 36°€ 600.8 632/400-1 642 599.6 1.43 \*10 28W Bek Work continued to Page 53 DATE 7 m

PAGE 21/26 \* RCVD AT 10/7/2005 3:14:06 PM [Eastern Daylight Time] \* SVR:USPTO-EFXRF-6/25 \* DNIS:2738300 \* CSID:7043316090 \* DURATION (mm-ss):06-56

DATE

WITNESS

DATE

7-01 X10-18

Work continued to Page 54 DATE

Peached

53 TITLE impeller can #3 PROJECT NJ. BOOK NO. Work continued from Page 52 # to Futrat E 13 min H Temp/set TZ Talme ንመዓ ~<del>ው</del> Na 642 632/1000/ 599.0 660-4 38 K 349 C 27 W 9.60 kg 1.0 19:30 641 632/200 59\$6 600.0 36 K 329 C 28 W 2.85110 1.0 141 650 Lac 329 c 600-Z 35 2c|W 1-0 -ET#10 41 chiller 077 -wode 475.6 470-G 3316 3% K 1.38 1/0-6 27 W 1.0 445.8 444.4 3492 75 1.0 26 ~ 7.78x16 402.2 3496 400-6 38 K 26 W 19 2.81x10 374.6 372.6 35°C 26 W B8.K 6.9 1-45/10 35% 3116 1312.2 3<del>6</del>15 w 25 0.9 05X10 27年.2 250.6 88 K w 0.9 25 5.86X10 reconnected ohales 956K10 9 4000 3592 38 K 25 2 0-9

WITNESS DATE PAGE 275 ACAIL ARIE CONTROL AVAIL ARIE CONTROL AVAI

all

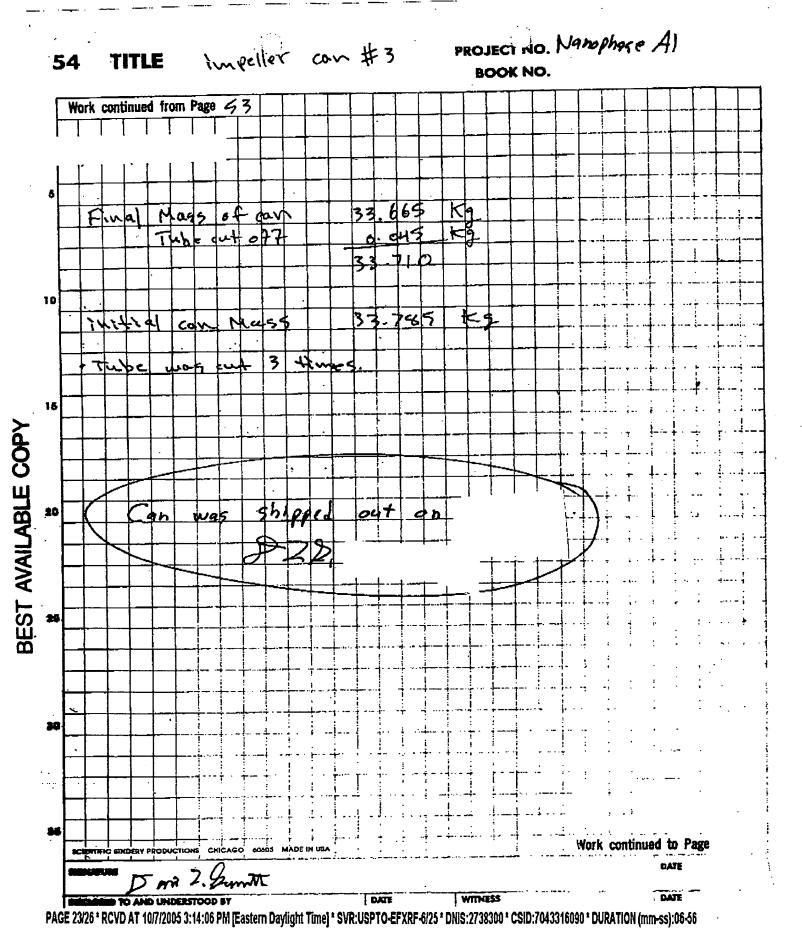
040400

Nut()

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BEST AVAILABLE



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IMPI
               4 INDUCERS (4, 10,11)(12)
               The 2.
     SHPPED IMP3 & DWP4 ON AUG 20 (MID SEPT. EXPLUSION)
               * FINAL FORMALE SETPOINT WAS 371 F
       IMP2 LOADED WIS FURNIFIE @ 81000mm.
                                                          3112 PREMIET & BILLET LONDED @10:30 pm
                                   FURNACE
                 BILLET TOMP
                                                                                     1: 30 pm + XTESU
                  TIC $ 2
                                                   TE
                                                           \mathcal{D}
                                         A \subset
BEST AVAILABLE COPY
                                                                            FUENUE LOND 3:45 am. @ 400°F
                                 FIDUS - 4237 TOWS
                BRONG THROUGH
                                                                            2008 @ 4:10 am
                                                                            350°F @ 6:00 am
              DW 344
                                                                             380'f @ 1:00 am
                           9000
                                        GD000000
                        BUIST DOWNS
                                                   FORME SETTOINT TROPPED
                                         TIC#3
           1:00am.
                        TK 2
                                                    Frank 410-1-400
                                 7 (SILLES 3)
                       FLANKS
                                                   BILLET 4
                                          400.5
                                                     9-30-98-IMP4 [4001 SHUET]
           7:15am
                                388.Z
                        389.2
                                          €003.3
                               390.2
                        389.1
                                          400.8 ... AMM 400 -> 326°F
                               392.0
                        269.3
                                           399.4
            7:30am.
                        589.3
                                391.6
                                           386.2... From 376 - 349°
            7:40 m
                        380.8
                                386.5
                                                  ... 8:50 369 🖚 364
           8:45am
                                            38(-0
                                382.9
                        377 •/
           9:0500
                                                         344-> 348
                                            376.5
                                378.5
                        372.2
           9:30am
                                             375.
                                 378.0
                                            LUER 634 F
                        371
                                                200 -> HEAT TO HOUTE 19:30
                                 315.
                        570 ·
       £ 9:46
                                 374
 PUNED PIRST.
                                                     10:30
       वेश्व स्था संबद्ध
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PAGE 24/26 \* RCVD AT 10/7/2005 3:14:06 PM [Eastern Daylight Time] \* SVR:USPTO-EFXRF-6/25 \* DNIS:2738300 \* CSID:7043316090 \* DURATION (mm-ss):06-56

THE BOEING COMPANY
Rocketdyne Propulsion
And Power System
MATERIALS APPLICATION
PROCESS
LABORATORY OPERATIONS

DATE G.O. 61918 REFERENCE EWR#936081 REPORT No. 9811-4

QUANTITY

Iron %/wt

PROGRAM NAME
Nanophase Aluminum

•

SPECIFICATION

MATERIAL Aluminum Alloy

SUBMITTED BY
R. Perez

DEPT. 912 CANOGA

PHONE 3958

TEST REPORT

## LABORATORY TEST RESULTS

Ž Š	SAM	<u>PLE</u>	MQ 2014U	
ABLE C	9/3Q	імР3	<b>8.8</b>	0.1
AVAIL	9/30	IMP4	8.6	0.1

BB - 0/ had

Log No. 9811-4 Charge No. 24410-81918-98100 Notebook Page No. 2054-24

W. Ho

DATE

A. Apati (W. Ha)
APPROVED

DATE



LECO CORPORATION \$000 Lakeview Avenue St. Joseph, Michigan 49085-2396 Work Order No: 12538 Classification: 8

PO/WO No NR98439623

Customer No 2593 Account No: 109485

### CUSTOMER SERVICE ANALYSIS REPORT

Customer:

BOEING NORTH AMERICAN, INC.

ROCKETDYNE DIVISION/633 CANOGA AVE.

CANOGA PARK CA 91503

Attention:

SONYA REID Dept. 917, MC BA71

The following is our laboratory analysis report on samples submitted by your company.

Any additional details of this analysis report can be obtained from the Technical Services Laboratory. Call 616-982-2277.

NOTE: We request that all samples submitted to the LECOO Technical Services Laboratory be accompanied by a Material Safety Data Sheet (MSDS) describing each material's characteristics. This information permits proper handling and storage.

tesuits for Sample: 6	3681	IMP3	A17.5%Mg
Instrument: CS444	<b>,</b>		
Standard:	NIST 1255 @	0.028% C	
Remarks:	Preheated Cn 231	ucible 528-018, Prehosts	id Lid 528-043, -1 g Lecocel II HP 502-173, -1 g iron Chip 502
Preparation:	Abraded with	a file, sectioned with a s	hear, rinsed in accione and dried with warm air.
% Sulfur	% Carbon		
	0.152		<del></del>
	0.151		
	0.148		
Instrument: RH40	2		
Standard:	Hydrogen Ge	s Dosa	
	769-761 Crud		
Preparation:	Abreded with	a file, sectioned with a s	hear, rinsed in acctone and dried with warm sir.
Hydrogen ppm	Bulk ppm	Surface ppm	
43.09	42.78	0.311	

Standard: LECO Std. 501-544 @ 0.0107% O, 0.0071% N (J0215-2)

Remarks: 782-720 Crucible, 1 g Nickel Basket 502-344, 0.05 g Graphite Powder 501-073

Preparation: Abraded with a file, sectioned with a shear, rinsed in scatone and dried with warm sir.

% Nitrogen	% Oxygen
0.383	0.239
0.381	0.235